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LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			RIMELL, SAMUEL G	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/887,413
Filing Date: June 21, 2001
Appellant(s): WANG ET AL.

Kayla D. Brant
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 3, 2006 appealing from the Final Office action mailed April 11, 2006.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct, and appears in the last sentence of the Status of Amendments.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

U.S. Patent 6,092,102 to Wagner, issued July 18, 2000, filed October 24, 1997.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Wagner (U.S. Patent 6,092,102).

Claim 1: Col. 6, lines 30-46 describes the general concept of receiving information and generating an alert. As seen in FIG. 1, the alert gets generated at (26) and is received by module (34) which performs mapping functions. The alerts derive from organizations (col. 5, lines 54-60) which generate clinical information, such as a lab (col. 11, line 62-67) or a news service (col. 7, lines 15-20) or individuals such as radiology staff (col. 7, lines 22-25 and col. 6, lines 4-7). These are multiple sources.

Col. 6, lines 45-46 specify that the alert be mapped to specific delivery modes. Table III in column 12 illustrates one of the mechanisms for accomplishing the mapping, namely a mapping table. Once the message is mapped to the specified deliver mode, such as e-mail or pager, the message is sent according to the specified mapping.

Claim 2: As seen in Table III, the message can be mapped according to the source. In particular, line 1 of Table III specifies that messages from a laboratory are mapped to a specific type of pager.

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Claim 3: The alerts may be mapped according to their content. Col. 12, lines 27-29 specify that surgeons may be mapped as receiving messages relating to surgical techniques while pharmacists may be mapped as receiving information for new drugs.

Claim 4: As seen in Table III, the delivery mode is in fact a delivery method. Table III illustrates five different delivery methods, as specified by the columns of Table III.

Claim 5: Table III specifies five different delivery methods, as seen from the columns of the table. One of the delivery methods is "2-way fail safe pager" in which the message is repeated until it is acknowledged. This would read on the steps of waiting for an acknowledgement in the case where an acknowledgement is expected.

Claim 6: Col. 14, lines 39-46 further describe the "fail safe pager" mode. In this instance a time is established to wait for an acknowledgement since an acknowledgement is expected in this mode.

Claim 7: Table III illustrates five different delivery modes corresponding to five different delivery methods, as seen from the columns of the table. Any one method corresponds to a first delivery method and any second method corresponds to a second delivery method.

Claim 8: The rows of Table III specify some of the possible categories of alerts, such as "Lab Test" or "New Article". Each of the categories can be assigned a delivery mode (defined by the columns of the table). Thus, table III defines a mapping between category of alert and delivery mode.

Claim 9: Table IV in columns 12 illustrates the assignment of priorities to the categories. For example, the category of "Lab Tests" is assigned an immediate deliver priority. The "Lab

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Test" category is also assigned a specific delivery mode, namely, the "Fail Safe" pager mode that is associated with the prioritized category.

Claim 10: Table V illustrates a mapping of each delivery mode to multiple delivery blocks. For example, the "two way fail safe pager" is a delivery mode that is mapped to a primary delivery block (the column data "time latency—immediate") and a secondary delivery block (the column data "Fail Safe—Yes"). In this instance, when the primary delivery block requiring the first delivery action (immediate delivery) fails, the data in the secondary block will initiate the second delivery action (fail safe mode; the message is repeatedly sent until acknowledged; col. 14, lines 39-46).

Claim 11: The primary delivery block is the column data "Time Latency—Immediate". The secondary delivery data is the column data "Fail Safe—Yes". No acknowledgement is awaited under the primary block because none is required. An acknowledgement is awaited under the conditions of the secondary delivery block, because the fail safe mode requires an acknowledgement after a certain time period to stop the repeated message transmissions (col. 14, line 39-46).

Claim 12: See remarks for claim 10.

Claim 13: See remarks for claim 11.

Claim 14: See remarks for claim 11.

Claim 15: Col. 14, lines 39-46 describe the waiting of time periods for acknowledgement to the messages.

Claim 16: FIG. 1 illustrates an input/output module (8) for inputting alert information (20) and outputting alerts to users (10, 12, 14). Table III illustrates a mapping module to map

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alerts to one of five delivery modes, as specified by the columns of FIG 3. FIG. 1 illustrates a communications layer interface (32) that is an interface the communications modules (i.e. e-mail systems and pagers) used by the end users (10, 12, 14).

Claim 17: See remarks for claim 2.

Claim 18: See remarks for claim 3.

Claim 19: See remarks for claim 4.

Claim 20: Table III specifies transmission by e-mail. Table V specifies immediate pager transmission, which reads as instant messaging. Table III pagers, which are short message service type messages.

Claim 21: For any one given delivery mode, such as "Two Way Pager with Fail Safe", a primary and secondary delivery block is provided. The primary block is the column data "Time Latency--Immediate". The second block is "Fail Safe—Yes". In the "Fail Safe—Yes" block of data, an acknowledgement to the message is expected (col. 14, lines 39-46).

Claim 22: Each of the primary and secondary delivery blocks specifies types of delivery actions. In the secondary delivery block, an acknowledgement is expected. (col. 14, lines 39-46).

Claim 23: Acknowledgements are expected after specific, predefined time periods (col. 14, line 44).

Claim 24: See remarks for claim 10.

Claim 25: Messages must be delivered according to both the primary and secondary delivery blocks specified in Table V.

Claim 26: See remarks for claim 10.

Claim 27: See remarks for claim 8.

Claim 28: FIG. 1 illustrates a processor (8), an I/O module (22), a memory (24) and an alert center (6). The alert center (6) includes a subscription layer (Table III and block 34). Messages are received at block (34) (the preferences block) after they are generated by the event monitor (4), as seen in FIG. 1. The preferences are specified in table III and assign a delivery mode. Referring back to FIG. 1, the system further includes a communications layer (32).

Claim 29: Col. 14, lines 39-46 call for the system to monitor acknowledgements of alert deliveries in the fail safe mode.

Claim 30: As described at col. 14, lines 39-46, the system monitors for acknowledgement of delivery. If delivery is not made, a backup of method of repeating the message is provided.

Claim 31: Table V in its entirety is readable as a primary delivery block. It specifies five delivery actions, as specified in the columns, For any one given delivery mode, such as "two way pager" specified in the first line, all five delivery actions must be met.

Claim 32: In Table V, each delivery mode is a row of the table. The primary delivery block can be the column data "Time Latency--Immediate". The secondary delivery block can be the column data "Fail Safe --Yes". As specified in col. 14, lines 39-46, if immediate delivery of the message is not achieved, the system turns to the fail safe mode in the secondary block and begins repeating the messages until acknowledged.

Claim 33: See remarks for claim 11.

Claim 34: See remarks for claim 8. The mapping module is Table III.

Claim 35: See remarks for claim 1.

Claim 36: See remarks for claim 8.

Claim 37: Table III specifies five delivery modes, which corresponds to five delivery actions.

Claim 38: Table V specifies delivery modes in the rows and delivery actions in the columns. Any one given delivery mode has five delivery actions associated with it.

Claim 39: See remarks for claim 10.

Claims 40-41: The phrase “the primary delivery mode” lacks antecedent basis. So the claim is subject to various interpretations. The “primary delivery mode” can be considered one of the rows in Table V. Each row has five delivery actions. If a message has failed to be received by an end user, then all five of the actions are inherently failed.

Claim 42: Col. 14, lines 39-46 specifying the monitoring for an acknowledgement by the system.

(10) Response to Argument

It is noted that appellant’s arguments are only directed to the independent claims, and that no dependent claims are argued separately.

Claims 1-9 and 11-15: Appellant presents only one argument, namely, that Wagner allegedly does not disclose the step of receiving an alert from one of multiple sources.

It is first noted that this claim does not require multiple alerts, but rather, multiple sources. Claim 1 clearly invokes the generation of at least one alert that may derived from multiple potential sources. Wagner clearly teaches both. The alert is schematically illustrated at (26) in FIG. 1 which illustrate at least one alert being generated (col. 6, line 31) by the event monitor (4) and received by notifier (6). The alerts originate from multiple sources, such as labs, news services and radiologists (col. 11, lines 62-67; col. 7, lines 15-20; col. 6, lines 4-7).

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Accordingly, Wagner clearly teaches the disputed features.

Claim 10: Appellant argues that Wagner allegedly does not teach transmitting the alert according to a second delivery action if the first delivery action fails. Examiner maintains that this feature is clearly taught in reference to Table V and col. 14, lines 39-46. The first delivery action is immediate delivery of a message. If this fails, then the message is re-sent according to the fail-safe routine, where the message is re-sent repeatedly until acknowledged. It should also be particularly noted that the term "first delivery action" could simply refer to the first initial transmission and the second delivery action could refer to the next subsequent transmission.

Accordingly, examiner maintains that Wagner teaches these features.

Claims 16-27: Appellant argues that Wagner allegedly does not disclose an input/output module configured to receive messages from multiple sources. The feature of multiple sources was already demonstrated and addressed in the discussion associated with claim 1. The input/output module is the overall system (8) in FIG. 1 which receives information input at its upper end and produces message output at its lower end. Wagner clearly teaches these features.

Claims 28-34: Appellant argues that Wagner allegedly does not teach a subscription layer configured to receive an alert from an alert source. Examiner explicitly identified Table III and block (34) as defining this feature. Block (34) is a schematic illustration of a system block that contains Table III. As seen by the arrows (26) in FIG. 1, the block (34) receives the incoming message alerts (26) and processes them according to the definitions in Table III. It is noted that appellant does not provide any rationale for why Wagner is lacking the claimed features, even though they were explicitly described in the office action. Appellant's arguments

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are mere blanket assertions without consideration of the correlation made to Wagner in the office action. For these reasons, the rejection is maintained.

Claims 35-42: Appellant's arguments reference those arguments made with respect to claim 1. The consideration of these arguments is made in the discussion associated with claim 1.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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APPEAL CONFERENCE 10/24/06
AGREEMENT TO PROCEED TO APPEAL

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